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Notice of Allowability	Applicati n N .	Applicant(s)	
	10/776,981	ARIAS, DAVID A.	
	Examiner	Art Unit	
	Faye Francis	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 1/6/05.
2. ☒ The allowed claim(s) is/are 1,3-12, 14-17 and 20-22.
3. ☒ The drawings filed on 11 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
|---|--|


DENNIS H. BANKS
 SUPERVISORY PATENT EXAMINER
 TECHNOLOGY CENTER 3700

DETAILED ACTION

Election/Restrictions

1. Claim 1 is directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 14-17, directed to process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. Claims 14-17 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Since all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement made in the Office action mailed on 9/28/04 is hereby withdrawn.

Allowable Subject Matter

2. Claims 1, 3-12, 14-17 and 20-22 are allowed.

3. The following is an examiner's statement of reasons for allowance:

Claim 1 has been found to be allowable over the prior art of record because the prior art fails to teach or suggest an aquatic toy that is capable of maintaining a desired form and position in water, comprising: a fabric portion reconfigurable between a closed position in which it is collapsible and an open position in which it is substantially planar; at least one opening, at least one buoyancy member and at least one weight positioned at a selected location on the fabric portion, the at least one buoyancy member and the at least one weight positioned such that the fabric portion extends into the open position when submerged in water, in combination with the remaining limitations of the claim.

Claim 21 has been found to be allowable over the prior art of record because the prior art fails to teach or suggest an apparatus, comprising: a substantially planar fabric portion including an interior portion defining an opening and an exterior portion extending outwardly from the opening, the exterior portion including an unconstrained peripheral edge of the fabric portion; at least one buoyancy member coupled to the exterior portion of the fabric such that a selected portion of the aquatic toy is buoyant, and at least one weight coupled to the exterior portion of the fabric portion such that a selected portion of the aquatic toy will sink when submerged in water, in combination with the remaining limitations of the claim.

Claim 22 has been found to be allowable over the prior art of record because the prior art fails to teach or suggest an apparatus, comprising: a fabric portion including an interior portion defining an opening and an exterior portion extending outwardly from the opening, the exterior portion including an unconstrained peripheral edge of the fabric portion; at least one buoyancy member, at least one weight, the fabric portion reconfigurable between a closed position in which the exterior portion is configured to be collapsed or folded and an open position in which the fabric portion is configured to extend into a substantially planar orientation when submerged in water, in combination with the remaining limitations of the claim.

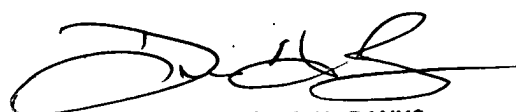
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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